

**NUNC PRO TUNC**

**MAY - 1 2008**

**FILED**

**2008 MAY -5 AM 11:14**

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY FNH DEPUTY

Raymond Robinson  
4562 Illinois St.  
San Diego, CA 92116  
(619) 283-3121  
xray.1@cox.net  
in pro per

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

RAYMOND ROBINSON,

Plaintiff,

vs.

DAVID RUBIN and BRIAN CORNELL,

Defendants.

Case No.: '08 CV 0244 DMS (BLM)

**FIRST AMENDED COMPLAINT FOR  
DAMAGES**

Jury Trial Requested.

**PRELIMINARY REMARKS**

1. In 1967, Supreme Court Justice William O. Douglas posed the following inquiry:  
"*... What about the judge who conspires with local law enforcement officers to 'railroad' a dissenter? What about the judge who knowingly turns a trial into a 'kangaroo' court? Or one who knowingly flouts the Constitution in order to obtain a conviction? ...*" [Pierson v. Ray, 386 U.S. 547, 566-67 (1967)].
2. Those very issues raised by Justice Douglas over 40 years ago are now surfacing by way of this lawsuit, exposing two such actors while serving as an example to

1 others who might be intentionally abusing the protected rights of self-represented  
2 litigants.

### 3 JURISDICTION AND VENUE

- 4 3. This case arises under the Constitution and laws of the United States and  
5 presents a federal civil rights question within this court's jurisdiction under  
6 28 U.S.C. section 1331.
- 7 4. The court has authority to grant nominal, actual and exemplary damages pursuant  
8 to 42 U.S.C. section 1983.
- 9 5. This venue is proper under 28 U.S.C. section 1391, in that both defendants reside  
10 within this district.

### 11 PARTIES

- 12 6. Plaintiff Raymond Robinson is a United States citizen residing in San Diego, CA.
- 13 7. Defendant David Rubin is a United States citizen and California state judge  
14 residing in San Diego, California. This action is brought against Mr. Rubin in his  
15 individual capacity.
- 16 8. Defendant Brian Cornell is a United States citizen and a City of San Diego traffic  
17 patrolman residing in San Diego, California. This action is brought against Mr.  
18 Cornell in his individual capacity.

### 19 STATEMENT OF FACTS

- 20 9. On November 15, 2006, Defendant Cornell issued a traffic citation to Plaintiff,  
21 thereby accusing Plaintiff of an infraction violation of California law.
- 22 10. On February 9, 2007 the State of California conducted a court trial of said  
23 accusation.
- 24 11. During said trial, Plaintiff was self-represented, Defendant Cornell was the sole  
25 government witness, and Defendant Rubin was the judge.

1 12. During said trial, when the legal argument of the defendant therein was to begin,  
2 Judge Rubin declared that the government's witness, a layperson, would "wave  
3 *opening and reserve rebuttal*," upon which the defendant asked Judge Rubin if the  
4 witness was therefore going to be allowed to argue, to which Judge Rubin  
5 declared, "Right. He has first and last but he's not going to go first. He's going to  
6 *let you go instead and he's going to go last.*"

7 13. Judge Rubin's assignment of the government's witness to argue the law on  
8 behalf of the People, as described in paragraph 12 above, was made without  
9 overt consultation with said witness and without objection therefrom.

10 14. Judge Rubin's said assignment of the government's witness to argue the law on  
11 behalf of the People, was a ministerial act requiring no discretion.

12 15. During said trial, at the completion of the defendant's four, specific legal  
13 arguments, Judge Rubin said to the government's witness, "Alright, your rebuttal,"  
14 at which point Mr. Cornell, still without objecting, proceeded to furnish the  
15 People's legal argument in opposition to each of the first three of Plaintiff's  
16 particular defensive arguments, ignoring the fourth.

17 16. During said trial, at the conclusion of Mr. Cornell's legal arguments, Judge Rubin  
18 pronounced Plaintiff herein guilty while acknowledging upon the record that the  
19 arguments of the government's witness had indeed influenced the court's verdict.

20 CAUSE OF ACTION

21 17. Plaintiff incorporates by reference the allegations of paragraphs 3 through 16  
22 above.

23 18. Defendants conspired to violate Plaintiff's *procedural* due process rights where  
24 having a layperson argue the law on behalf of the State and having the judge rely  
25

1 upon said argument for the court's guilty verdict, thus rendering the underlying  
2 proceedings fundamentally unfair.

3 19. Defendants conspired to violate Plaintiff's *substantive* due process rights where,  
4 at the urging of the judge, the government's witness got up and started arguing  
5 the law on behalf of the People of the State of California, thereby shocking the  
6 conscience of a reasonable person.

7 20. Defendants are in violation of 42 U.S.C. section 1983, in that they acted under  
8 color of state law to deprive Plaintiff of due process rights protected under, and  
9 guaranteed by, Section 1 of the Fourteenth Amendment to the Federal  
10 Constitution.

11 21. Defendants are in violation of California Civil Code sections 1708, 1709 and 1710  
12 for their deceitful infringement upon Plaintiff's rights as aforesaid.

13 REQUEST FOR RELIEF

14 Good cause having been shown, Plaintiff requests the following:

15 22. That both Defendants be found guilty of violating Plaintiff's federally protected  
16 constitutional rights;

17 23. That both Defendants be found guilty of violating Plaintiff's California civil rights;

18 24. That the Court recognize Defendant Cornell's violation of California Business and  
19 Professions Code section 6126 (a) for arguing the law on behalf of the People of  
20 the State of California without being a member of the State Bar, a misdemeanor;

21 25. That the Court recognize both Defendants' violation of California Penal Code  
22 section 182 (a)(1) for their conspiracy to have Defendant Cornell represent the  
23 People as aforesaid;

24 26. That the Court recognize both Defendants' violation of California Penal Code  
25 section 182 (a)(5) for conspiring to pervert or obstruct justice, or the due

1 administration of the laws, where Defendant Rubin precipitated Defendant  
2 Cornell's representation of the People and then relied thereupon where finding  
3 Plaintiff herein guilty;

4 27. That the Court find the aforesaid conduct of Defendant Rubin as non-judicial,  
5 because said Defendant knew he had no jurisdiction whatsoever to assign a  
6 layperson to argue the law on behalf of the People, and also because said  
7 Defendant had no jurisdiction whatsoever to knowingly participate in a violation of  
8 state penal code(s);

9 28. That Plaintiff be awarded \$1.00 in nominal damages;

10 29. That Plaintiff be awarded \$10,000.00 in actual damages;

11 30. That the Defendants be minimally punished through punitive damages equal to  
12 one year's 2007 gross salary from each of said Defendants, respectively, to serve  
13 also as an example so that other such actors might be discouraged from trampling  
14 upon the rights of future unsuspecting litigants;

15 30. That Plaintiff be awarded any other or further relief as the Court or Jury may  
16 deem appropriate.

17 VERIFICATION

18 I, Raymond Robinson, am the Plaintiff in this action. I personally set forth the  
19 allegations of fact in this Complaint, and I hereby declare under penalty of perjury that  
20 each of said allegations is true and correct.

21 Dated: 5-1-08



22 Raymond Robinson

23 Plaintiff, in pro per

24 ////

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San Diego, CA 92116  
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SOUTHERN DISTRICT OF CALIFORNIA**

RAYMOND ROBINSON,  
Plaintiff,

vs.

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Case No.: '08 CV 0244 DMS (BLM)  
PROOF OF SERVICE BY MAIL

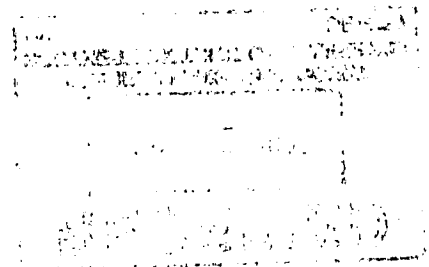
I, ALLEN HISER, declare that I am over the age of eighteen years and not a party to the above-entitled action. I am employed in the County of San Diego, California where my business address is 8033 Vickers Street, San Diego, California 92111.

I further declare that I am familiar with the normal collection of mail by the United States Postal Service at my place of business, and that I placed for today's such collection the following document in the above-entitled case:

**FIRST AMENDED COMPLAINT FOR DAMAGES**

...by placing true copies of said document into two envelopes thereafter sealed and bearing sufficient postage, and addressed to:

PROOF OF SERVICE BY MAIL



1 Cheryl Brierton, Litigation Attorney

2 Superior Court of California

3 220 West Broadway

4 San Diego, CA 92101

5 and to:

6 Walter Clement Chung

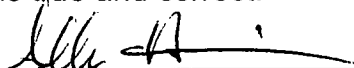
7 Office of the City Attorney

8 1200 3<sup>rd</sup> Avenue, Suite 1100

9 San Diego, CA 92101

10 I declare under penalty of perjury that the foregoing is true and correct.

11 Dated: 5-1-08



12 Allen Hiser